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**FEB 15 2006**

Atty. Docket No. MEI03 P-300

**CERTIFICATE OF FACSIMILE**

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02-15-06  
Date

*Jaclyn R. Folkema*  
Jaclyn R. Folkema

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Art Unit : 2171  
Examiner : Merilyn P. Nguyen  
Applicant : Michael Meiresonne  
Appln. No. : 09/938,163  
Filing Date : August 23, 2001  
Confirmation No. : 1287  
For : **SUPPLIER IDENTIFICATION AND LOCATOR  
SYSTEM AND METHOD**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

**REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICE ACTION**

On February 8, 2006, the Examiner mailed a Final Office Action in this case. This is a request for the withdrawal of the final rejection made in the Office Action mailed February 8, 2006. This request is not intended to be responsive to the merits of the rejections made in this Office Action, but is limited to this procedural issue.

In the Final Office Action mailed February 8, 2006, the Examiner, for the first time, presents two new grounds for rejection. For the first time, the Examiner rejected claims 1, 11, 19, 22, 24, 49, 51, and 53 as being directed toward non-statutory subject matter under 35 U.S.C. §101 and claims 1, 3, 7, 11, 14, 18, 19, 22, 24, 28, 29, 35, 36, 40, 41, 47, 49, 51, and 53 under 35 U.S.C. §112, second paragraph as being indefinite. Both of these rejections were neither necessitated by Applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement filed during the period set forth in

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37 C.F.R. 1.97(c) with the fee set forth in 37 C.F.R. 1.17(p). Section 706.07(a) of the Manual of Patent Examining Procedure specifically states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R 1.97(c) with the fee set forth in 37 C.F.R. 1.17(p).

(MPEP §706.07(a), 8<sup>th</sup> Edition, Rev. 4, 2005).

The Examiner has, for the first time, rejected claims 1, 3, 7, 11, 14, 18, 19, 22, 24, 28, 29, 35, 36, 40, 41, 47, 49, 51, and 53. Specifically, the Examiner argues that the claim language "at least partially visible" and "at least partially descriptive" is indefinite. These phrases were present previously in various claims and this rejection was not given. Given the fact that at least the rejection under 35 U.S.C. §112 is an introduction of a new ground of rejection that was neither necessitated by Applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement, Applicant respectfully submits that the finality of the Office Action mailed February 8, 2006, be withdrawn. Also, if it is the Examiner's position that Applicant's amendments necessitated the new grounds for rejection, Applicant assumes that restoration of the claims to their previous version would eliminate the rejection. Moreover, in addition to the rejection under 35 U.S.C. §112, Applicant respectfully submits that the amendments filed in the Response on October 19, 2005, did not necessitate the rejection of the claims that have currently been rejected under 35 U.S.C. §101.

For the foregoing reasons, Applicant submits that the finality of the Office Action mailed February 8, 2006, is premature. A notification from the Examiner indicating that the finality of the February 8, 2006 Office Action is withdrawn is therefore respectfully solicited.

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Respectfully submitted,  
**MICHAEL MEIRESONNE**  
By: **PRICE, HENEVELD, COOPER,  
DEWITT & LITTON, LLP**

2/15/2006

Date

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